

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548**FILE:** B-217629**DATE:** May 13, 1986**MATTER OF:** Theodore H. Clark, Jr. - Reimbursement for
Meals - Temporary Duty Site Near Family
Domicile**DIGEST:**

Employee, who was on authorized travel to a high rate geographical area, claims reimbursement of expenses for breakfast and lunch meals incurred while on temporary duty near his family domicile in Pennsylvania. He rents a room at his official duty station in Baltimore, Maryland, and commutes to such station when his presence there is required. Since Baltimore was his permanent duty station, and he was in a travel status while staying at his family domicile, he may be reimbursed the actual cost of meals, in accordance with paragraph C4611-1g, Volume 2, of the Joint Travel Regulations.

This decision is in response to a request by Mr. William J. Nicholson, Finance and Accounting Officer, Baltimore District, Corps of Engineers, Department of the Army, for an advance decision. Mr. Theodore H. Clark, Jr., an employee of the agency, has asked for our ruling on the agency's disallowance of expenses he incurred for several breakfasts and lunches while he was performing official duty at a temporary duty site near his place of family domicile. We hold that the employee is entitled to reimbursement of the claimed meal expenses since he was in a travel status while staying at his family domicile away from his permanent duty station.

THE FACTS

Mr. Clark is employed by the Corps of Engineers in Baltimore, Maryland, his official duty station. He is a member of a drill rig field crew in which 85 to 95 percent of his duties are performed away from his official post of

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duty. Mr. Clark's family residence, or domicile, is in Mt. Holly Springs, Pennsylvania, approximately 4 miles west of Carlisle, Pennsylvania. Since Mr. Clark is in a continuous travel status, only a small portion of his work time is spent at Baltimore, his official duty station. He commutes to Baltimore from a nearby rented room when it is necessary for him to be present at his official station.

The travel vouchers submitted by Mr. Clark show that while living at his family domicile in Mt. Holly Springs, Pennsylvania, he traveled between his family domicile and his temporary duty site at Harrisburg, Pennsylvania, a high rate geographical area, during January 1984. The agency denied reimbursement of the costs of breakfast meals for January 4, 5, 6, 10, 11, 12, and 13, 1984. Expenses incurred for lunch meals on January 3, 6, 9, and 13, 1984, also were not reimbursed.

Mr. Clark seeks reimbursement of the costs of breakfast and lunch meals incurred en route to and at his temporary duty worksite. The Corps of Engineers denied reimbursement of the claimed expenses for lunches based upon the provisions of paragraph C4550-7, Volume 2, of the Joint Travel Regulations (2 JTR) which state, in essence, that per diem is not allowable for temporary duty travel when a travel period is 10 hours or less during the same calendar day except when the travel period is 6 hours or more and begins before 6 a.m., or terminates after 8 p.m. Breakfast expenses were denied pursuant to paragraph C4611-3 of 2 JTR which disallows the cost of meals at the employee's permanent duty station or enroute to or from a nearby terminal.

OPINION

The provisions of law governing the entitlement of Federal employees to be reimbursed for the costs of meals, lodging, and other miscellaneous expenses incident to official travel are contained in 5 U.S.C. § 5702 (1982). The statutory provision also states that an employee may be reimbursed for the actual and necessary expenses of official travel when he or she travels to a high rate geographical area. Since Mr. Clark performed temporary duty in Harrisburg, a high rate geographical area, the implementing

regulations are found in Chapter 1, Part 8, of the Federal Travel Regulations (FTR) (Supp. 1, September 28, 1981), incorp. by ref., 41 C.F.R. § 101-7.003 (1985), and Chapter 4, Part M, 2 JTR. Paragraph 1-8.1a of the FTR and para. C4600-1a of 2 JTR provide for reimbursement of expenses incurred by an employee for all periods of temporary duty travel away from his or her permanent duty station, and away from his or her place of abode from which the employee commutes to that duty station.

The specific regulation applicable to the facts involved in this claim is paragraph C4611-1g of 2 JTR wherein it is stated:

"Temporary Duty Performed at Place of Family Domicile. When an employee performs temporary duty at the place of his family domicile, which is other than the place from which he commutes to work each day while on duty at his permanent duty station, the employee will be considered to have incurred no lodging cost on any day that he occupied lodgings at the family domicile (56 Comp. Gen. 223), and reimbursement for other allowable expenses on such day will be limited as indicated in subpars. e and f."

Subparagraph e provides that on full travel days, the amount allowable for commercial meals will be limited to 39 percent of the maximum actual expense allowance prescribed for each day the employee is in a travel status. Subparagraph f concerns ceilings on incidental expenses and therefore is not applicable to this claim.

Mr. Clark is not claiming lodging expenses while he stayed at his family home, and his meal expenses are well within the 39 percent limitation and appear to be reasonable.

We recently considered another case with similar factual circumstances, Algie Horton, Jr., B-215502, September 30, 1985, 64 Comp. Gen. _____ (1985). At the time of his permanent change of station to Springfield, Illinois, from the Chicago, Illinois, area, the claimant had left his family residence in Chicago and leased an

apartment in Springfield, which he used to commute to his duty station in Springfield. We held that, for purposes of determining the travel entitlements of the employee, his apartment in Springfield was his residence and the fact that he stayed with his family while on temporary duty did not bar reimbursement of his travel expenses.

In our decision, Durel R. Patterson, B-211818, February 14, 1984, affirmed on reconsideration, B-211818, November 13, 1984, we considered the claim of an employee who sought a reduced per diem allowance (no lodging costs) while staying at his family residence which was near Baton Rouge, Louisiana, one of his temporary duty worksites. The facts in that case showed that the employee's duties were as an itinerant who performed work at many temporary duty locations. When he performed duties at his permanent duty station, he stayed at the residence of his in-laws and commuted from that location. We cited our earlier decision, Daisy Levine, 63 Comp. Gen. 225 (1984), and concluded that since the claimant was an itinerant employee, so long as he performed some duties at his official duty station, he could be paid per diem while performing duty at various temporary duty worksites. We also concluded that the employee was entitled to per diem (other than lodging) when temporary duty was performed in the area of his family domicile.

Mr. Clark's travel orders authorized the payment of per diem and actual subsistence expenses, where applicable, in accordance with 2 JTR. As shown above, 2 JTR para. C4611-1g provides for reimbursement of the costs of meals when an employee performs temporary duty at or near the place of his family domicile, which is other than the place from which he commutes to work each day while on duty at his permanent duty station. Mr. Clark was in a travel status away from his permanent duty station and place of abode in Baltimore while performing temporary duty at Harrisburg. Although he is not entitled to any costs of lodging while staying at his family residence in Mt. Holly Springs, he may be reimbursed for other allowable expenses, including the costs of his breakfast and lunch meals.

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The regulations relied on by the agency in denying Mr. Clark's claim are applicable to travel at or near the permanent duty station and have no application to the case before us. Likewise, we see no indication that the agency has fixed his official station at Baltimore for the purpose of paying per diem in violation of 31 Comp. Gen. 289.

Accordingly, Mr. Clark is entitled to reimbursement of the claimed expenses for breakfast and lunch meals set forth in his original travel vouchers, which were disallowed, in accordance with the foregoing.

for 
Comptroller General
of the United States